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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,987	08/26/2003	Robert L. Zeunik	2920/3	2492

7590 07/21/2005

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EXAMINER

RUNNING, RACHEL A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAL

Office Action Summary**Application No.**

10/647,987

Applicant(s)

ZEUNIK, ROBERT L.

Examiner

Rachel A. Running

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/27/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: ____.</p> |
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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4,5,6,7 are rejected under 35 U.S.C. 102(b) as being anticipated by Albright (U.S. Patent No. 1,694,364). Albright discloses a shaving brush comprising a bristle base (5) (column 1 lines 38-41), and a first (11) and second (10) set of bristles extending from the bristle base (column 1 lines 49-51). See Figure 2. Regarding claim 2, where the first set of brush bristles form the outer layer and the second set form the inner layer can be seen in Figure 2. Regarding claim 4, in which there is a means recitation it is noted to have passed the 3-prong analysis for the “means plus function” claim limitations as set forth by U.S.C. 112th 6th paragraph. See MPEP 2181-2185. The recitations is as follows: Claim 4, “means for attaching said first set of bristles and said second set of bristle brushes to said bristle base.” Albright discloses a means for attaching brush bristles to base (column 1, lines 39-41). Regarding claims 5 and 6, Albright discloses a cap (2) operable to be adjoined to said bristle base by a screw-threaded portion to define a shaving handle (column 1, lines 32-34). See figure 1. Regarding claim 7, Albright discloses a rib (4) around the handle of the invention. See Figure 1.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyhagen (U.S. Patent No. 1,571,556) in view of Albright (U.S. Patent No. 1,694,364).

Nyhagen discloses a shaving brush comprising a first set of brush bristles (12), a cap (30) having an opening operable to be adjoined to the bristle base to define a handle (see Figure 2) and a storage case assembly (see Figure 1) (column 3, lines 55-68). Means recitations in claims 4,6,7,9,10,14,15, and 16 are noted to have passed the 3-prong analysis for the "means plus function" claim limitations as set forth by U.S.C. 112th 6th paragraph. See MPEP 2181-2185. The recitations are as follows: Claims 4 and 14, "means for attaching said first set of bristles and said second set of bristle brushes to said bristle base." Claims 6, 9, and 15, "means for adjoining said cap to said bristle base." Claims 7, 10, and 16, "means for gripping said shaving brush." Nyhagen discloses a means for attaching the bristles to the bristle base (column 2, lines 75-78), and a means for adjoining said cap to said bristle base (column 3, lines 75-78). However, Nyhagen does not disclose two sets of bristle lengths, and a means for gripping the shaving brush. Albright teaches, providing a brush with bristles of different lengths to define a cavity in order to retain the shaving cream in the central portion of

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the brush (column 1, lines 42-49). Albright teaches that the relative size of the brush and the lengths of the bristles may be varied according to the type of brush desired (column 2, lines 87-92). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form a cavity in the shaving brush bristles of Nyhagen to have 2 different sets of bristles of different lengths as taught by Albright in order to store shaving cream and make it easier for the user to apply shaving cream to their face without creating a lather in their hands, therefore, creating a faster clean up time. Albright teaches a means for gripping the shaving brush by creating a rib (4) on the handle. See Figure 1 and 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the handle grip of Albright to the brush of Nyhagen, in order to make it easier for the user to grip the handle and to keep it from sliding out of their hands in order to avoid a messy cleanup. With regard to claims 3 and 13, Albright teaches that the relative size of the brush and the lengths of the bristles may be varied according to the type of brush desired (column 2, lines 87-92). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the height of the first set of brush bristles at least twice the height of the second set of brush bristles in order to create a cavity capable of holding shaving cream.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Levite U.S. Patent No. 3,047,898

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Hogan U.S. Patent No. 3,167,806

Rickey U.S. Patent No. 5,475,891

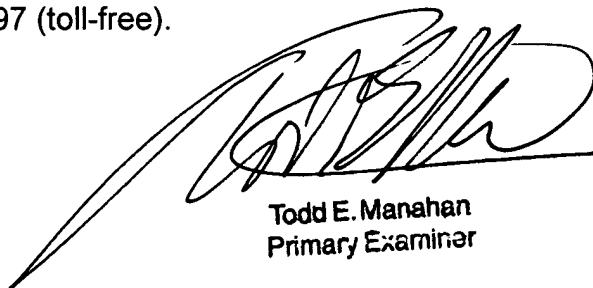
Snodderly U.S. Patent No. 3,309,727

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571) 272-1917. The examiner can normally be reached on Monday-Friday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAR



Todd E. Manahan
Primary Examiner